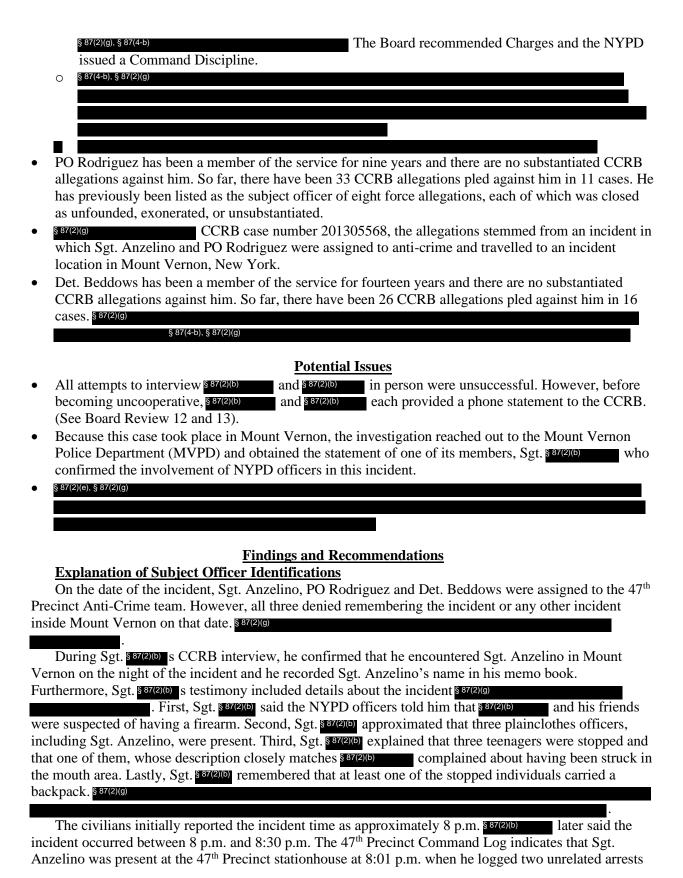
CCRB INVESTIGATIVE RECOMMENDATION

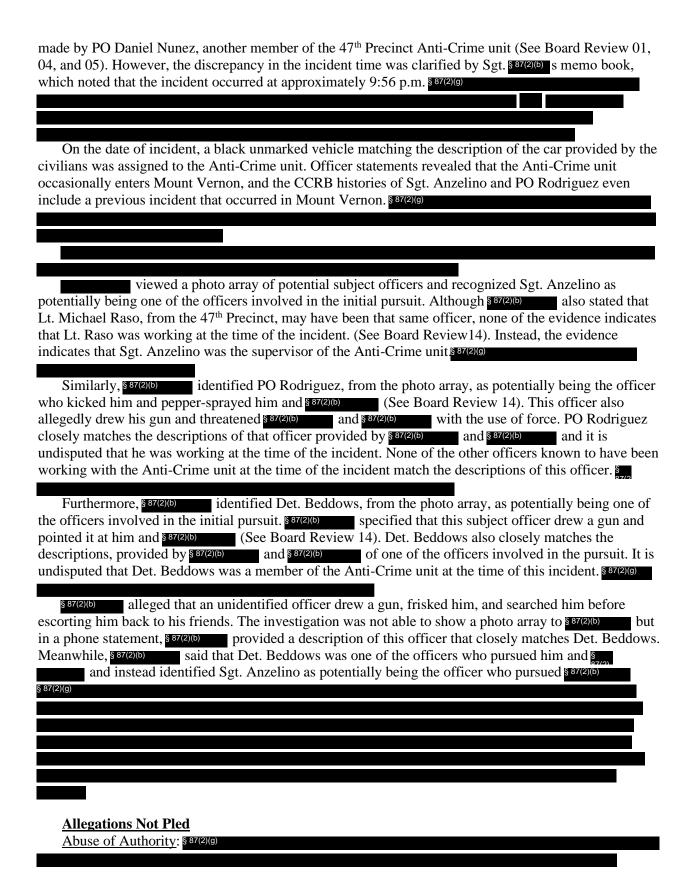
Investigator:	Т	Team:	CCRB Case #:	✓ Force	☐ Discourt.	U.S.
Keyne Jean Villert	S	Squad #14	201409498	☑ Abuse	O.L.	☐ Injury
Incident Date(s)	I	Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Sunday, 08/17/2014 9:56 PM	I .	South 10th Avenue and Mount Vernon, New Y		47	2/17/2016	2/17/2016
Date/Time CV Reported	C	CV Reported At:	How CV Reported:	Date/Tim	e Received at CCI	RB
Mon, 09/15/2014 5:15 PM		CCRB	Call Processing System	Mon, 09/	15/2014 5:15 PM	[
Complainant/Victim	Type	Home Addre	ess			
Witness(es)		Home Addre	ess			_
Subject Officer(s)	Shield	TaxID	Command			
1. An officer			047 PCT			
2. SGT John Anzelino	00097	917037	047 PCT			
3. DTS Daniel Beddows	7398	926556	047 PCT			
4. POM Juan Rodriguez	16076	939343	047 PCT			
Witness Officer(s)	Shield No	Tax No	Cmd Name			
1. POM Jens Maldonado	14155	940408	047 PCT			
2. POM Daniel Nunez	18750	940519	047 PCT			
Officer(s)	Allegation	ı		Inv	estigator Recon	nmendation
A.SGT John Anzelino	Abuse: Sgt. John Anzelino stopped stopped and stopped and stopped and stopped					
B.POM Juan Rodriguez	Abuse: PO	Abuse: PO Juan Rodriguez drew his gun.				
C.DTS Daniel Beddows	Abuse: Det. Daniel Beddows drew his gun.					
D.DTS Daniel Beddows	Force: Det. Daniel Beddows pointed his gun at \$87(2) and \$87(2)(b)					
E.POM Juan Rodriguez	Abuse: PO Juan Rodriguez threatened \$87(2)(b) and with the use of force.					
F.POM Juan Rodriguez	Force: PO Juan Rodriguez used pepper spray against \$\frac{8}{(b)}\$ and \$\frac{8}{5}(2)(b)\$					
G.POM Juan Rodriguez	Force: PO Juan Rodriguez used physical force against [87(2)]					
H. An officer	Abuse: An	officer drew his gun.				
I. An officer	Abuse: An force.	officer threatened § 87(with th	e use of		
J. An officer	Abuse: An	officer frisked § 87(2)(b)				

Allegation	Investigator Recommendation
Abuse: An officer searched § 87(2)(b)	

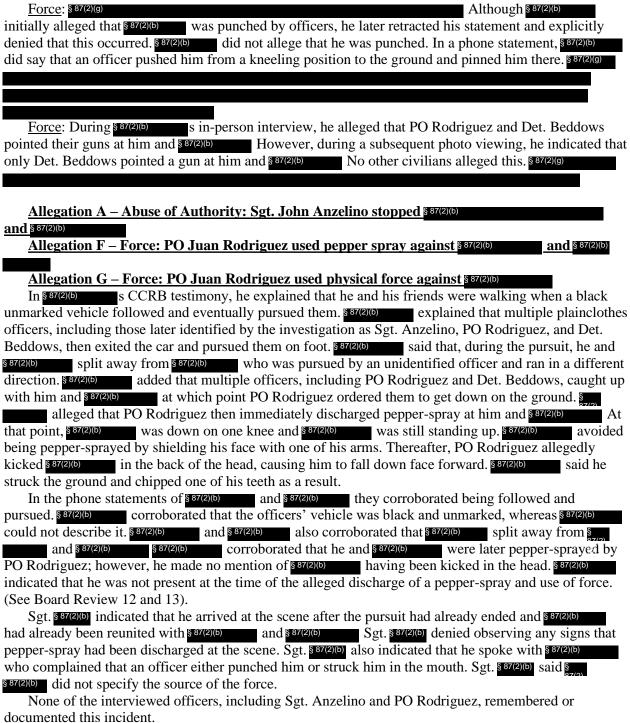
Case Summary
On August 17, 2014, at approximately 9:56 p.m., \$87(2)(b) and his two friends, \$87(2)(b) and \$87(2)(b) were walking in the vicinity of the intersection of West 3 rd Street and South 10 th Avenue in Mount Vernon, New York, when a black unmarked patrol car started following them.
said that he, sar(2)(b) and sar(2)(b) had been walking from another area within Mount Vernon and did not pass through the Bronx. sar(2)(b) and his friends realized that the car was following them and then started running away from it. The car was occupied by three officers from the
47 th Precinct, identified via investigation as Sgt. John Anzelino, PO Juan Rodriguez and Det. Daniel Beddows. A fourth unidentified officer may have also been inside the car. The officers pursued
and \$87(2)(b) and at some point, the officers exited the car and
continued the chase on foot (Allegation A). [\$87(2)(b)] and [\$87(2)(b)] ran down South 10 th Avenue, whereas [\$87(2)(b)] ran down South 9 th Avenue. PO Rodriguez and Det. Beddows eventually caught up
with \$87(2)(b) and \$87(2)(b) PO Rodriguez and Det. Beddows allegedly drew their guns and pointed them at \$87(2)(b) and \$87(2)(b) (Allegation B, C, and D). PO Rodriguez also allegedly
threatened \$87(2)(b) and \$87(2)(c) with the use of force, pepper-sprayed them, and kicked in the back of the head (Allegations E , F , and G). During that time, one of the officers, whose identity could not be determined, caught up with \$87(2)(b) and allegedly drew a gun, threatened him with the use of force, frisked him, and searched him, including his backpack (Allegation H , I , J , and K).
was eventually brought back to his friends, where the officers asked them whether they had stolen anything. The officers eventually told \$87(2)(b) and \$87(2
This case was originally assigned to Inv. Monique West, \$87(2)(b) on October 3, 2014. On December 23, 2014, this case was reassigned to the undersigned Case Closing Unit investigator.
Mediation, Civil and Criminal Histories
• This case was not suitable for mediation because \$87(2)(b) reported having sustained an injury as a result of this incident, \$87(2)(b)
§ 87(2)(g)
• On June 23, 2015, a notice of claim inquiry was submitted to the Office of the Comptroller in regard to this incident. The response will be added to the case file upon receipt.
● [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
Civilian and Officer CCRB Histories
• This is the first CCRB complaint involving §87(2)(b) the only victim who provided a verified
statement (See Board Review 17). §87(2)(b) filed this complaint on behalf of her son and has not filed any previous CCRB complaints.
• Sgt. Anzelino has been a member of the service for 18 years and there have been, so far, 76 CCRB allegations pled against him in 22 cases. The CCRB has previously substantiated one discourtesy allegation and five abuse of authority allegations against him.
o In case number 200408476, Sgt. Anzelino was found to have improperly detained, cursed at, and maliciously transported away to another borough an individual. §87(2)(9). §87(4-b) The Board recommended Charges and the NYPD
issued a Command Discipline. o In case number 201106433, Sgt. Anzelino was found to have improperly supervised the stop of multiple individuals and refused to provide his name and shield number. \$87(2)(9). \$ 97(4-5)
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The investigation could not locate a 911 call or any police communication related to this incident.

The Court of Appeals of New York held in People v. Debour, 40 N.Y.2d 210 (1976), that officers can forcibly stop and detain an individual based on a reasonable suspicion that he has committed, is committing, or is about to commit a crime. In addition, People v. Moore, 93 A.D.3d 519 (1st Dept. 2012) held that an interaction is raised to a seizure whenever physical force is used, or if no physical force is used, the person is submitted to the assertion of authority. (See Board Review 22 and 23).

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The courts have also long held that the flight of an individual at the sight of officers, who only have an objective credible reason to approach him or her, will not give them the required reasonable suspicion to pursue that person. See People v. Jones, 2015 N.Y. Misc. LEXIS (Sup. Ct., Queens Co.) and People v. Holmes, 81 N.Y.2d 1056 (1993). They have also held that officers with a founded suspicion that criminality is afoot can, however, engage in a pursuit with a fleeing individual. See People v. Williams, 2014 N.Y. App. Div. LEXIS 6268 (2nd Dept.). (See Board Review 24, 25, and 26).

According to <u>Patrol Guide Procedure</u> 212-95, officers may use pepper-spray when they reasonably believe that it is necessary to effect an arrest of a resisting suspect, or to take an emotionally disturbed person in custody. It also adds that pepper-spray "may be used in arrest or custodial restraint situations where physical presence and/or verbal commands have not been, or would not be, effective in overcoming physical resistance" and that officers are prohibited from pepper-spraying individuals who passively resist. (See Board Review 27).

In turn, <u>Patrol Guide Procedure</u> 203-11 indicates that only the amount of force necessary to overcome resistance will be used to effect an arrest or take a mentally ill or emotionally disturbed person into custody. (See Board Review 28).

Furthermore, <u>PD v. Danahy</u>, OATH Index No. 1923/00 (2000), held that an officer used excessive force against a flailing civilian, who was down on the floor, by striking him with his fists and with a blunt object. It explained that the civilian did not resist with the kind of force that would have justified the use of strikes by the officer. (See Board Review 18).

\$ 87(2)(g)
Although §87(2)(b) did not file the complaint with the CCRB, he still remained cooperative with
the investigation by providing multiple statements and viewing a photo array over the span of more than
eight months. §87(2)(9)
§ 87(2)(g)
§ 87(2)(g)

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§ 87(2)(g)
Allered on D. Alexandra AAlexador DO Lear De Jaines Janes Lie and
Allegation B – Abuse of Authority: PO Juan Rodriguez drew his gun.
Allegation C – Abuse of Authority: Det. Daniel Beddows drew his gun.
Allegation D – Force: Det. Daniel Beddows pointed his gun at \$87(2)(b) and \$87(2)(b)
In § 87(2)(b) s verified statement, he alleged that PO Rodriguez and Det. Beddows drew their guns
and pointed them at him and \$87(2)(b) after they had split from \$87(2)(b) However, he did not
mention this in his initial phone statement and during a later photo viewing, he clarified that only Det.
Beddows pointed a gun at him and \$87(2)(b)
In a detailed phone statement, §87(2)(b) corroborated that multiple officers drew their guns at the
initiation of the chase. He made no indication that any officers pointed their guns, but he would not have
been present for the gun-pointed allegations that occurred after he split from his friends. (See Board
Review 12 and 13). In \$87(2)(0) s phone statement, which was significantly less detailed than those of
\$87(2)(b) and \$87(2)(b) he noted that the officers had guns, but he made no indication that they were
ever drawn.
None of the interviewed officers, including PO Rodriguez and Det. Beddows, remembered nor
documented this incident.
PD v. Gliner, OATH Index No. 955/00 (2000), held that an officer can draw his firearm and point it a
another person so long as he has a reasonable fear for his own or another's safety. It indicates that the
reasonableness of the officer's actions, given the totality of the surrounding circumstances, must be
assessed when determining whether drawing and pointing a firearm constitutes misconduct. It further
indicates that broad discretion and due deference is given to an officer's judgment at the time and scene o
the incident. (See Board Review 19).
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)
Allegation E – Abuse of Authority: PO Juan Rodriguez threatened § 87(2)(6) and § 87(2)(6)
In his initial phone statement, \$\frac{87(2)(0)}{2}\$ alleged that PO Rodriguez stated to him and \$\frac{87(2)(0)}{2}\$ "Stop running before we shoot you." He later alleged in his verified statement that PO Rodriguez instead stated, "Get down on the ground before we shoot you." However, \$\frac{87(2)(0)}{2}\$ recounted this instance, during a follow-up phone statement, as PO Rodriguez having made the order for them to "get down on the ground." Furthermore, \$\frac{87(2)(0)}{2}\$ indicated, during the photo array viewing, that he did not remember PO Rodriguez having made a threat of force. None of the additional contacted or interviewed parties corroborated that PO Rodriguez made any of the alleged threats of force.
§ 87(2)(g)
Allegation H – Abuse of Authority: An officer threatened \$\frac{87(2)(0)}{87(2)(0)}\$ with the use of force. Allegation J – Abuse of Authority: An officer frisked \$\frac{87(2)(0)}{87(2)(0)}\$ Allegation K – Abuse of Authority: An officer searched \$\frac{87(2)(0)}{87(2)(0)}\$ In a phone statement, \$\frac{87(2)(0)}{87(2)(0)}\$ alleged that the officer who pursued and caught up with him also frisked and searched him before escorting him back to \$\frac{87(2)(0)}{87(2)(0)}\$ and the other officers. \$\frac{87(2)(0)}{87(2)(0)}\$ indicated that the only witness of those allegations is his aunt, \$\frac{87(2)(0)}{87(2)(0)}\$ who the investigation was unable to contact. As mentioned above, \$\frac{87(2)(0)}{87(2)(0)}\$ failed to cooperate with the CCRB in providing a verified statement and the investigation was unable to identify the subject officer of the above allegations. (See Board Review 13). None of the other contacted or interviewed parties made any indication that they were privy to any of these allegations.
§ 87(2)(g), § 87(4-b)

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§ 87(4-b), § 87(2)(g)		
Pod: 14		
Investigator:	Keyne Jean Villert	
Signature	Print	Date
Supervisor:		
Title/Signature	Print	Date
Reviewer:		
Title/Signature	Print	Date
Reviewer:	Print	Data
Title/Signature	FIIII	Date